

LAW OFFICES OF KENNETH L. BAUM LLC

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UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

In re:

BED BATH & BEYOND INC., *et al.*,

Debtors.

CASE NO. 23-13359 (VFP)

CHAPTER 11

**OBJECTION OF FORUM LONE STAR, L.P., TO NOTICE TO CONTRACT PARTIES
TO POTENTIALLY ASSUMED EXECUTORY CONTRACTS AND UNEXPIRED
LEASES
(Related Docket No.: 714)**

Forum Lone Star, L.P. (“**Forum**”), by and through its attorneys, Law Offices of Kenneth L. Baum LLC, by way of objection to the Notice to Contract Parties to Potentially Assumed Executory Contracts and Unexpired Leases [Dkt. No. 714] (the “**Cure Notice**”), states as follows:

1. Forum, as landlord, and Bed Bath & Beyond, Inc., as tenant, are parties to a Lease Agreement dated August 19, 2009 (the “**Lease**”), for the Debtor’s use of retail premises at a shopping center commonly known as the Forum at Olympia Parkway, located in San Antonio, Texas (the “**Premises**”).
2. The Cure Notice includes, *inter alia*, a potential assumption and assignment of the Lease, referenced at Lease No. 783. The Cure Notice incorrectly states that there are \$0.00 in monetary arrears under the Lease.

3. Pursuant to Section 5.1.2 of the Lease, the Debtor is required to pay its *pro rata* share of Common Area Charges, as that term is defined under the Lease, applicable to the Premises. Based on a year-end reconciliation of 2022 Common Area Charges and a corresponding adjustment for such charges for 2023, the Debtors owe Forum \$27,341.04 in underpaid charges. A true copy of the statement issued by Forum to the Debtor in the amount of \$27,341.04 is attached as **Exhibit A**.

4. The total cure amount currently required to be paid to Forum in connection with any assumption of the Lease pursuant to Section 365 of the Bankruptcy Code is \$27,341.04.

5. Forum specifically reserves its right to object to any other relief sought by the Debtors in connection with the assumption of the Lease, including, but not limited to, any additional amounts coming due under the Lease and any assignee's proposed adequate assurance of future performance (including, but not limited to, such adequate assurance pursuant to Sections 365(b) and 365(f) of the Bankruptcy Code).

WHEREFORE, Forum respectfully requests that any order in connection with the assumption and assignment of the Lease adhere to the requirements set forth above and such other and further relief as the Court deems just and proper.

Respectfully submitted,

LAW OFFICES OF KENNETH L. BAUM
LLC
Attorneys for Forum Lone Star, L.P.

By: /s/ Kenneth L. Baum
Kenneth L. Baum

DATED: June 26, 2023

EXHIBIT A

BED BATH & BEYOND (MOCCP: BEFLSL)

Building Status: Active

Aging By Billing Date

Occupancy Status: Current, E, Inactive, New

Aged Delinquencies Report

Report Date: 6/23/2023

Invoice Date	Category	Src.	Amount	Current	30	60	90	120
<div> FLSLP-000182 Bed Bath and Beyond 1317 Suite Id: 002 Day Due: Delq Day: </div> <div> Contact: Dolapo Adenuga Status: Inactive Last Payment: 2/1/2021 10,635.18 </div> <div> (908) 855-4527 Master Occupant Id: BEFLSL-1 </div>								
7/15/2020	CR1	CAM Other 1: Prior Yr	CH	235.41	0.00	0.00	0.00	235.41
9/21/2021	CER	CEM: Prior Yr	CH	58.23	0.00	0.00	0.00	58.23
9/21/2021	CMR	CAM: Prior Yr	NC	-132.90	0.00	0.00	0.00	-132.90
9/21/2021	CR1	CAM Other 1: Prior Yr	CH	266.12	0.00	0.00	0.00	266.12
9/21/2021	LR4	CAM-Lot 4: Prior Yr	NC	-6.23	0.00	0.00	0.00	-6.23
	CER	CEM: Prior Yr		58.23	0.00	0.00	0.00	58.23
	CMR	CAM: Prior Yr		-132.90	0.00	0.00	0.00	-132.90
	CR1	CAM Other 1: Prior Yr		501.53	0.00	0.00	0.00	501.53
	LR4	CAM-Lot 4: Prior Yr		-6.23	0.00	0.00	0.00	-6.23
Bed Bath and Beyond 1317 Total:				420.63	0.00	0.00	0.00	420.63
<div> FLSLP-000649 Bed Bath and Beyond 1317 Suite Id: 002 Day Due: Delq Day: </div> <div> Contact: Amit Parkar - Real Estate Lease Acctng Status: Current Last Payment: 6/2/2023 32,246.40 </div> <div> (908) 855-4527 Master Occupant Id: BEFLSL-2 </div>								
9/21/2021	CMR	CAM: Prior Yr	NC	-0.02	0.00	0.00	0.00	-0.02
6/23/2023	CAM	CAM: Current Yr	CH	7,585.86	7,585.86	0.00	0.00	0.00
6/23/2023	CEM	CEM: Current Yr	NC	-541.29	-541.29	0.00	0.00	0.00
6/23/2023	CER	CEM: Prior Yr	NC	-1,082.59	-1,082.59	0.00	0.00	0.00
6/23/2023	CM1	CAM Other 1: Current Yr	CH	1,630.83	1,630.83	0.00	0.00	0.00
6/23/2023	CMR	CAM: Prior Yr	CH	15,171.71	15,171.71	0.00	0.00	0.00
6/23/2023	CR1	CAM Other 1: Prior Yr	CH	3,261.68	3,261.68	0.00	0.00	0.00
6/23/2023	LR4	CAM-Lot 4: Prior Yr	CH	894.23	894.23	0.00	0.00	0.00
	CAM	CAM: Current Yr		7,585.86	7,585.86	0.00	0.00	0.00
	CEM	CEM: Current Yr		-541.29	-541.29	0.00	0.00	0.00
	CER	CEM: Prior Yr		-1,082.59	-1,082.59	0.00	0.00	0.00
	CM1	CAM Other 1: Current Yr		1,630.83	1,630.83	0.00	0.00	0.00
	CMR	CAM: Prior Yr		15,171.69	15,171.71	0.00	0.00	-0.02
	CR1	CAM Other 1: Prior Yr		3,261.68	3,261.68	0.00	0.00	0.00
	LR4	CAM-Lot 4: Prior Yr		894.23	894.23	0.00	0.00	0.00
Bed Bath and Beyond 1317 Total:				26,920.41	26,920.43	0.00	0.00	-0.02
	CAM	CAM: Current Yr		7,585.86	7,585.86	0.00	0.00	0.00
	CEM	CEM: Current Yr		-541.29	-541.29	0.00	0.00	0.00
	CER	CEM: Prior Yr		-1,024.36	-1,082.59	0.00	0.00	58.23
	CM1	CAM Other 1: Current Yr		1,630.83	1,630.83	0.00	0.00	0.00
	CMR	CAM: Prior Yr		15,038.79	15,171.71	0.00	0.00	-132.92
	CR1	CAM Other 1: Prior Yr		3,763.21	3,261.68	0.00	0.00	501.53
	LR4	CAM-Lot 4: Prior Yr		888.00	894.23	0.00	0.00	-6.23
MOCCP BEFLSL Total:				27,341.04	26,920.43	0.00	0.00	420.61
	CAM	CAM: Current Yr		7,585.86	7,585.86	0.00	0.00	0.00
	CEM	CEM: Current Yr		-541.29	-541.29	0.00	0.00	0.00
	CER	CEM: Prior Yr		-1,024.36	-1,082.59	0.00	0.00	58.23
	CM1	CAM Other 1: Current Yr		1,630.83	1,630.83	0.00	0.00	0.00
	CMR	CAM: Prior Yr		15,038.79	15,171.71	0.00	0.00	-132.92
	CR1	CAM Other 1: Prior Yr		3,763.21	3,261.68	0.00	0.00	501.53

BED BATH & BEYOND (MOCCP: BEFLSL)

Building Status: Active

Aging By Billing Date

Occupancy Status: Current, E, Inactive, New

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Report Date: 6/23/2023

Invoice Date	Category	Src.	Amount	Current	30	60	90	120
LR4	CAM-Lot 4: Prior Yr		888.00	894.23	0.00	0.00	0.00	-6.23
Grand Total:			27,341.04	26,920.43	0.00	0.00	0.00	420.61